

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

(1) PAUL EDWARD SIMMONDS,	)	
et.al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. CIV-10-493-JHP
	)	
(4) DARIN J. UPTON, et.al.,	)	
	)	
Defendants.	)	


**ORDER**

In this action, which was removed from the District Court of Pushmataha County, Oklahoma,

Plaintiffs alleged Defendants violated their right to be free from unreasonable searches and seizures. On November 22, 2011, Defendant Jim Duncan, in his official capacity as Sheriff, Pushmataha County, Oklahoma, filed his Motion for Summary Judgment (Document 20). On January 5, 2012, Plaintiffs filed a response (Document 27), which admitted nine of the eighteen asserted material facts as to which no genuine issue exists asserted in Sheriff Duncan's summary judgment brief, and further admitted proposition I (Sheriff Duncan's entitlement to summary judgment with regard to Plaintiff's claim under 42 U.S. § 1983) and Proposition II (Sheriff Duncan's immunity from suit with respect to any state, tort-law claims) as set forth in Sheriff Duncan's summary judgment brief.

The Court finds that, with respect to Plaintiffs' claims against Sheriff Duncan, and for those reasons set forth in Sheriff Duncan's Motion for Summary Judgment and Brief In Support, that there is no genuine dispute as to any material fact, and that Sheriff Duncan is entitled to judgment as a matter of law. Sheriff Duncan's Motion for Summary Judgment (Document 20) is granted. Judgment will be entered on behalf of Sheriff Duncan and against Plaintiffs.

It is so ordered this 6th day of January, 2012.



James H. Payne  
United States District Judge  
Eastern District of Oklahoma